

DEPARTMENT OF STATE REVENUE

**LETTER OF FINDINGS NUMBER: 94-0278 CSET
Controlled Substance Excise Tax
For Tax Periods: 1994**

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ISSUE

1. CONTROLLED SUBSTANCE EXCISE TAX: IMPOSITION

Authority: IC 6-7-3-5

Taxpayer protests the imposition of Controlled Substance Excise Tax.

STATEMENT OF FACTS

Taxpayer was arrested for possession of marijuana. The Indiana Department of Revenue issued a record of Jeopardy Finding, Jeopardy Assessment Notice and Demand on February 11, 1994 in a base tax amount of \$140.00. Taxpayer filed a protest to the assessment. A hearing on the protest was scheduled for 10:00 a.m. on January 21, 1999. Taxpayer was notified of the hearing at his last known address. Taxpayer did not appear for the hearing. Further facts will be provided as necessary.

Controlled Substance Excise Tax-Imposition

DISCUSSION

IC 6-7-3-5 imposes the Controlled Substance Excise Tax on the delivery and possession of marijuana in the State of Indiana. An investigating agent's statement and the lab report indicate that Taxpayer was in possession of marijuana. Taxpayer has the burden of proving that the information in the file

and assessment are incorrect. Since Taxpayer did not appear at the hearing or offer any written information in lieu of a hearing, the Department must rely on the contents of the file in making a decision on the matter. Therefore, the tax properly applies to Taxpayer in this situation.

FINDING

Taxpayer's protest is denied.